

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 11, 2006. Applicants amend Claim 1. Applicants respectfully request reconsideration and favorable action in this case.

Section 112 Rejections

The Office Action rejects Claims 1, 3, and 5-7 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention due to the inadvertent omission of “substantially parallel score lines” following “a pair of” in the tenth line of the claim. Claim 1 has been amended to address this rejection. Favorable action is requested.

Section 103 Rejections

The Office Action rejects Claims 1, 3, 5-10, 12, 14-30, 32 and 34-37 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0082477 for Kim (“*Kim*”). Applicants respectfully traverse these rejections for at least the reasons stated below.

Claim 1 is allowable at least because *Kim* fails to disclose, teach, or suggest “an insertion element coupled proximate a first end of the flexible cover, the insertion element being selectively expandable from a closed position to an open position to facilitate insertion of the elongated medical instrument.” The Office Action relies on Figure 3 in *Kim* to teach this limitation, but does not identify what element it contends meets this limitation. Figure 3 in *Kim* merely refers to “an optional elastic circular band” and a sleeve 15 having an opened end 16 and a closed end 17. *Kim* does not teach or suggest that any of these elements are an insertion element or are selectively expandable from a closed position to an open position to facilitate insertion of the elongated medical instrument. An elastic circular band merely for “securing a sleeve to a handle during use” [0016] does not constitute an insertion element being selectively expandable from a closed position to an open position to facilitate insertion of an elongated medical instrument. Clearly, the closed end 17 does not meet this limitation because an elongated instrument cannot be inserted through the closed end 17 nor is the closed end 17 selectively expandable. Although, *Kim* discloses a sleeve 15 with an opened

end that is “funnel shaped to facilitate the insertion of the handle into the sleeve” [0021], this fails to meet the insertion element limitation at least because *Kim* fails to teach or suggest that the funnel-shaped end of sleeve 15 is selectively expandable from a closed position to an open position to facilitate insertion of an elongated medical instrument.

In addition, Claim 1 is allowable at least because *Kim* fails to disclose, teach, or suggest “a pair of substantially parallel perforations formed in the insertion element.” The Office Action relies on element 23 in *Kim* to teach the above limitation, but this is incorrect. Element 23 merely shows “an optional elastic circular band” without teaching or suggesting an insertion element or perforations formed in the insertion element. Furthermore, since *Kim* fails to teach or suggest “a pair of substantially parallel perforations formed in the insertion element,” *Kim* clearly fails to teach or suggest “a pair of substantially parallel score lines formed in the cover and aligned with the pair of substantially parallel perforations,” as recited in Claim 1, as amended.

Also, Claim 1 is at least allowable because *Kim* fails to disclose, teach, or suggest “a tab coupled to the insertion element.” The Office Action relies on paragraph 0026 to teach this limitation, but this is incorrect. Paragraph 0026 does not refer to a tab or any element that meets the insertion element limitation. Likewise, the tab of Figure 2(a) in *Kim* is a feature of the sleeve 15 and is not coupled to anything that could be considered an insertion element.

For at least the above reasons, Claim 1 is allowable, as are all claims depending therefrom. Favorable action is requested.

All other independent claims are allowable at least for analogous reasons. For example, *Kim* fails to teach or suggest “an insertion element coupled proximate a first end of the flexible cover,” as recited in independent Claims 8 and 23. That is, *Kim* fails to teach or suggest any sort of element coupled proximate a first end of the flexible cover that is an insertion element. Since *Kim* fails to teach or suggest an insertion element, *Kim* clearly fails to teach or suggest that “a portion of the insertion element . . . is removable” or “removing a portion of the insertion element,” as recited in Claims 8 and 23 respectively. Similarly, because *Kim* fails to teach or suggest perforations formed in an insertion element, *Kim* fails to teach or suggest “a pair of substantially parallel score lines formed in the cover and aligned with the pair of substantially parallel perforations,” as recited in Claims 8 and 23. Applicants’ other dependent claims are allowable based on their dependence on independent

Claims 8 and 23 and further because they recite numerous additional patentable distinctions over the reference of the rejection. For example, *Kim* does not teach or suggest “a tab coupled to the insertion element” that is “adapted to remove the portion of the insertion element between the pair of substantially parallel perforations,” as recited in Claim 9. In contrast, the tab of Figure 2(a) in *Kim* is not coupled to anything that could be considered an insertion element and therefore cannot possibly be adapted to remove a portion an insertion element.

For at least the above reasons, Claims 8 and 23 are allowable, as are all claims depending therefrom. Favorable action is requested.

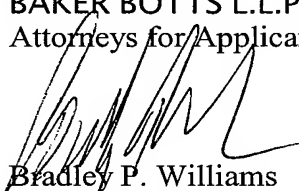
Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. 02-0384 of **Baker Botts L.L.P.**

Respectfully submitted,

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